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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,277	01/19/2001	Robert K. Samson		9675

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY  
AND POPEO, P.C.  
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BOSTON, MA 02111

EXAMINER
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FELTEN, DANIEL S

ART UNIT	PAPER NUMBER
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3693

MAIL DATE	DELIVERY MODE
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07/31/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/766,277	<b>Applicant(s)</b> ROBERT K. SAMSON	
	<b>Examiner</b> Daniel S. Felten	<b>Art Unit</b> 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 78-86 and 90 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 78-86 and 90 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3693

### DETAILED ACTION

1. Receipt of the Election/Restriction choosing Group II including claims 78-86 and 90 is acknowledged. Claims 78-86 and 90 are pending in the application and are presented to be examined upon their merits.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 78-86 and 90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al (US 6,021,397) in view of Melnikoff (US 5,729,700)

**Re claims 78 and 90,** Jones discloses an investment guidance system for providing financial

planning assistance (see Jones, Abstract), comprising:

--means for receiving a financial goal from a user (see column 2, lines 13-44; column 5, lines 3-48 and 52+);

--means for receiving one or more input decisions upon which the probability of achieving said financial goal is dependent, wherein one of the input decisions includes selecting an asset allocation based on investment risk (see "user's risk preference," column 6, lines 8-39,

Art Unit: 3693

esp. lines 13-17; and column 10 line 54 to column 11, line 6);

means for determining the probability of achieving said financial goal (see column 6, lines 8-39; and column 10 line 54 to column 11, line 19);

-- means for receiving an indication that said user has selected a target asset allocation investment plan in order to achieve said financial goal (see "constraints" column 10 line 54 to column 11, line 6; and column 12, lines 9-15);

--means for receiving a request to rate a plurality of assets within a selected asset class (see "optimization," column 10, lines 54 to column 11, line 6);

--means for providing two or more criteria associated with said assets for said user to evaluate (see "monitoring module," column 11, line 63 to column 12, line 8);

Jones disclose performing fails to disclose means for receiving a relative weight of importance for said two or more criteria based on the user's personal investment preferences, means for determining a rating for each asset based on the relative weights assigned to said two or more criteria, means for ranking plurality of said assets based on said rating, means for receiving a request to execute a trade for one or more of the ranked assets in order to fulfill said target asset allocation investment plan; and means for executing said trade for one or more of the selected ranked asset.

Melnikoff provides a portfolio selector that performs relative weights of an asset or set

Art Unit: 3693

of assets based upon two criteria and executes trades (see column 5, line 25 to column 6, line 40, esp column 6, lines 4-40; and column 10, lines 30-41).

It would have been obvious for an artisan at the time of the invention of Jones to modify the optimization module in Jones to provide a weight assets within a investment portfolio to further provide a well known alternative analysis for the investor to evaluate the risk involved within certain portfolios, representing investor criteria and/or investment choices. Thus such a modification would provide the investor with more investment risk information and how an asset effects the investment portfolio. Such financial information would allow the investor to make better investment decisions and provide more accurate investment advice.

**Re claim 79**, further comprising means for reallocating asset distribution in a user's portfolio based on executed trades (see column 5, line 25 to column 6, line 40, esp column 6, lines 4-40; and column 10, lines 30-41)

**Re claim 80**, further comprising means for receiving additional requests to execute said trade for one of the ranked assets in order to fulfill said target asset allocation investment plan (see column 5, line 25 to column 6, line 40, esp column 6, lines 4-40; and column 10, lines 30-41)

**Re claim 81**, means for evaluating said target asset allocation investment plan against one or more financial goals (see column 6, lines 8-39; and column 10 line 54 to column 11, line 19);

means for alerting the user if progress towards one or more financial goals deviates substantially (column 12, lines 9-15)

Art Unit: 3693

**Re claim 82**, wherein said financial goal is a retirement income (see column

**Re claim 83**, wherein one of said input decisions upon which the probability of achieving said financial goal is dependent is a 401(k) contribution rate (see column 6, lines 60+).

**Re claim 84**, wherein one of said input decisions upon which the probability of achieving said financial goal is dependent is a taxable savings rate (see column 6, lines 7-34) .

**Re claim 85**, wherein one of said input decisions upon which the probability of achieving said financial goal is dependent is the income required at retirement (see “constraints” column 10 line 54 to column 11, line 6; and column 12, lines 9-15)

**Re claim 86**, wherein one of said input decisions upon which the probability of achieving said financial goal is dependent is an anticipated retirement age (see “constraints” column 10 line 54 to column 11, line 6; and column 12, lines 9-15)

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Felten whose telephone number is (571) 272-6742. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3693

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Daniel S Felten  
Examiner  
Art Unit 3693

DSF  
7/23/2007